

REMARKS**I. General**

The issues raised in the present Office Action are as follows:

- The claim of priority is objected to by the present Office Action;
- Claim 8 is objected to for informalities;
- Claims 1-8 stand rejected under 35 U.S.C. 102(b) as anticipated by McIntyre, U.S. Pat. No. 4,097,012 (hereinafter *McIntyre*); and
- Claims 1-8 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

Applicant hereby traverses the outstanding rejections of the claims, and request reconsideration and withdrawal of the outstanding rejections in light of the amendments and remarks contained herein. Claims 1 and 8 are amended above to correct typographical errors and for purposes of clarification. No new matter has been added by these amendments. Specifically, in independent claim 1, the word “between” has been replaced with the word “joining” and the word “and” has been replaced with the word “with.” Support for this amendment can be found throughout the drawings of the present application, wherein bracket 301 is shown as joined with bracket 303. As discussed in greater detail below, claim 8 has been amended to rectify its language with that of base claim 7. The claims have been amended only for cosmetic purposes, resolving minor informalities, typographical errors and for clarification, and not for a substantial reason related to patentability. Claims 1-8 are currently pending in this application.

II. Objection to Claim of Priority

The present Office Action objects to the claim of priority. The Office Action indicates that this application was “filed under the former 37 CFR 1.60.” However, the present application was filed as a continuation application under 37 CFR 1.53(b) and a new specification was filed (contrary to the practice under former 37 CFR 1.60).

The Office Action also indicates that the application “lacks the necessary reference to the prior application.” However, the first paragraph of the present application, as filed, clearly indicates “This application is a Continuation of co-pending and commonly assigned U.S. Patent Application Serial No. 10/080,168 entitled “SYSTEM AND METHOD FOR BI-DIRECTIONAL ACCESS TO A FASTENING DEVICE”, filed February 21, 2002.”

Finally, the Office Action indicates that “the current status of all nonprovisional applications referenced has not been updated” and that “[a] appropriate correction is required.” The first paragraph of the specification has been amended above to provide available bibliographic information for the parent and cited related applications.

III. Claim Objection

Claim 8 is objected to for informalities. In response, claim 8 has been amended to replace the word “mounting” in the preamble and the phrase “equipment mounting” with the word “fastening.”

IV. Rejection(s) under 35 U.S.C. §102(e)

Claims 1-8 are rejected under 35 U.S.C. 102(b) as anticipated by *McIntyre*. Applicant respectfully traverses this rejection for at least the reasons advanced below.

The recited reference does not teach all claimed limitations.

It is well settled that to anticipate a claim, the reference must teach every element of the claim, see M.P.E.P. §2131. Moreover, in order for an applied reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he elements must be arranged as required by the claim,” see M.P.E.P. § 2131, citing *In re Bond*, 15 US.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for an applied reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim,” see M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). Applicant respectfully asserts that the rejection does not satisfy at least these requirements.

Independent claim 1 recites “a first mount bracket rotatably attached to a first assembly” and “a second mount bracket rotatably attached to a second assembly.” Claim 1,

as amended, also recites “a perpendicular rigid attachment joining said first mount bracket with said second mount bracket.” *McIntyre* does not disclose at least these limitations.

In *McIntyre* each of the mount brackets 30 are rotatably attached to support member 20. Please see the paragraph of *McIntyre* beginning on line 42 of column 2. Therefore, *McIntyre* fails to disclose “a first mount bracket rotatably attached to a first assembly” and “a second mount bracket rotatably attached to a second assembly” (emphasis added).

Additionally, the brackets of *McIntyre* are not joined together as recited by claim 1, particularly as amended. As shown in FIGURE 1 of *McIntyre*, each of the legs 32 and 31, of each bracket 30, are shown joined to other brackets, B (as labeled by the Office Action) and support member 20, respectively. The legs of separate ones of *McIntyre* brackets 30 are not shown as joined together. Thus, FIGURE 1 of *McIntyre* fails to show “a perpendicular rigid attachment between said first mount bracket and said second mount bracket” as originally recited by claim 1 and FIGURE 1 of *McIntyre* certainly fails to show such joining of a first mount bracket with a second mount bracket as recited by amended claim 1.

Therefore, Applicant respectfully asserts that for at least the above reasons independent claim 1 is patentable over the 35 U.S.C. §102 rejection of record.

Claims 2 through 8 ultimately depend from base independent claim 1, and thus inherit all limitations of claim 1. Therefore, for at least the reasons advanced above in responding to the rejection of claim 1, each of claims 2 through 8 set forth features and limitations not disclosed by *McIntyre*. Thus, Applicant respectfully asserts that at least for the above reasons claims 2-8 are patentable over the 35 U.S.C. §102 rejection of record.

V. Double Patenting

A. U.S. Patent 6,672,787

Claims 1-8 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent 6,672,787. In response to the rejection, Applicant respectfully submits that a prima facie case of obviousness has not been established. Any obviousness type double patenting rejection should make clear: (A) The differences between the inventions defined by the conflicting claims, i.e. a claim in the recited patent compared to a claim in the current application; and (B) The reasons why a

person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the recited application. See M.P.E.P. §804(II)(B)(1). However the present obviousness-type double patenting rejection does not detail the differences between the claims of U.S. Pat. No. 6,672,787 as compared with the current application, and does not provide any reasons why one skilled in the art would conclude that the claims of this current application are obvious in view of the claims of U.S. Pat. No. 6,672,787. The Office Action merely states that the claims are not patentably distinct without providing the required rationale.

B. U.S. Patent Application Serial No. 10/751,094

Claims 1-8 also stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of related co-owned pending U.S. Patent Application Serial No. 10/751,094. However, Applicant wishes to point out that the present application is a continuation, and that U.S. Patent Application Serial No. 10/751,094 is a divisional, of common parent patent application Serial No. 10/080,168, which has issued as U.S. Pat. No. 6,672,787. Parent application Serial No. 10/080,168 was the subject of a Restriction Requirement dated December 31, 2002, which required election between claim groups I (claims 1-6), II (claims 7-10), III (claims 13-16) and IV (claims 11-12) of application Serial No. 10/080,168. The Restriction Requirement indicated that the claims of each group were distinct. An election, without transverse, was made to prosecute the claims of group I, claims 1-6 in application Serial No. 10/080,168. In the course of prosecution of parent application Serial No. 10/080,168 dependent claim 5 was indicated as allowable and claim 5 was amended to place it in independent form. The remaining claims were made the subject of the present continuation application. Independent claim 1 of the present application corresponds to and contains the elements and limitations of independent claim 1 (from Group I, as defined by the Examiner) of parent application Serial No. 10/080,168. Independent claim 1 of the divisional application Serial No. 10/751,094 corresponds with independent claim 7 (of Group II, as defined by the Examiner) of parent application Serial No. 10/080,168. Claim 1 of the present continuation application and claim 1 of divisional application Serial No. 10/751,094 are the only independent claims in each of these applications. Therefore, each of the dependent claims of each of the applications contains all the limitations of their respective base independent claim 1. Whereas, in accordance with the earlier issued restriction requirement in parent application Serial No.

10/080,168, independent claims 1 and 7 of parent application Serial No. 10/080,168 are patentably distinct, the present claims are patentably distinct from the claims of continuation application Serial No. 10/751,094.

For at least the above recited reasons, Applicant respectfully asserts that the obviousness-type provisional double patenting rejection is also invalid, and that the obviousness-type double patenting rejection of claims 1-8 should be withdrawn.

VI. Conclusion

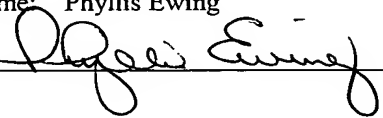
In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 08-2025, under Order No. 10017979-2, from which the undersigned is authorized to draw. The Examiner is respectfully encouraged to call the below-named attorney if he can be of assistance in expediting prosecution of the present application.

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Label No. EV 482737419US in an envelope addressed to: M/S Amendment, Commissioner for Patents, Alexandria, VA 22313.

Date of Deposit: August 13, 2004

Typed Name: Phyllis Ewing

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Respectfully submitted,

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